

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BURNICE WILSON, JASON ROUCHON, JOHN
PROVOST, and MARCUS JONES

Plaintiffs,

V.

BRAD LIVINGSTON, Executive Director, in his official capacity, the TEXAS DEPARTMENT OF CRIMINAL JUSTICE, and the UNIVERSITY OF TEXAS MEDICAL BRANCH,

Defendants.

CIVIL ACTION NO. 4:14-CV-1188

JURY TRIAL DEMANDED

JOINT STIPULATION OF DISMISSAL OF DEFENDANT BRAD LIVINGSTON
AND WITHDRAWAL OF MOTION TO DISMISS

Plaintiffs Burnice Wilson, Jason Rouchon, John Provost, and Marcus Jones and Defendant Texas Department of Criminal Justice provide this stipulated dismissal of Defendant Brad Livingston pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and Withdrawal of Brad Livingston's Motion to Dismiss.

1. Burnice Wilson, Jason Rouchon, John Provost, Marcus Jones and the Prison Justice League filed their Second Amended Complaint on January 26, 2015 (Docket Number 37) against Defendants Brad Livingston, in his official capacity, the Texas Department of Criminal Justice (“TDCJ”) and the University of Texas Medical Branch (“UTMB”).

2. On October 2, 2015, the Court dismissed (i) all claims by the Prison Justice League, (ii) all claims against UTMB, and (iii) certain other claims alleged by Plaintiffs in the Second Amended Complaint. *See* Docket Number 56.

3. On January 6, 2016, Brad Livingston filed a motion to dismiss all claims against himself as alleged in the Second Amended Complaint. Docket Number 73.

4. In an effort to resolve the matter without expending further judicial resources, all remaining Plaintiffs (Burnice Wilson, Jason Rouchon, John Provost, and Marcus Jones) and all remaining Defendants (TDCJ and Brad Livingston) hereby stipulate to the dismissal of all claims alleged against Brad Livingston that are raised in the Second Amended Complaint pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii).

5. Fed. R. Civ. P. 41(a)(1)(A)(ii) states:

Rule 41. Dismissal of Actions (a) Voluntary Dismissal (1) By the Plaintiff (A) Without a Court Order. Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing: ... (ii) a stipulation of dismissal signed by all parties who have appeared.

6. Because this dismissal of claims against Brad Livingston is made with the agreement of all parties, the parties also agree that Brad Livingston's Motion to Dismiss is now moot, and is therefore withdrawn without prejudice to refile.

Dated: January 27, 2016

Respectfully submitted,

By: /s/ Wallis Nader
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Civil Justice***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on January 27, 2016, to all counsel of record who have appeared in this matter through the Electronic Case Files System of the Southern District of Texas.

/s/ Wallis Nader